

Amendment and Response to Restriction Requirement*Page 9 of 10**Applicant(s): Emery et al.**Serial No.: 10/749,602**Filed: December 31, 2003**For: IN OVO DELIVERY OF AN IMMUNOGEN CONTAINING IMPLANT***Remarks**

Please enter and consider new claims 67-82 and original claims 34-44.

Support for new claims 67-82 is found throughout the specification and original claims.

Support for new claim 67 is found in original claim 34 and page 6, lines 8-9 of the specification.

Support for new claim 68 is found in original claim 34 and page 19, line 18 through page 20, line 8 of the specification.

Support for new claim 69 is found in original claim 34 and page 16, lines 11-12 of the specification.

Support for new claims 70-82 is found in original claims 34-44 and page 19, lines 5-7 of the specification.

Response to Restriction Requirement

In response to the Restriction Requirement mailed July 14, 2004, Applicants elect, with traverse, **Group III (claims 34-44 and 67-82)**, drawn to a method for inducing immunity in a bird comprising administration of an SRP via sustained release. Applicants' Representatives reserve the right to pursue examination of the non-elected claims in continuation or divisional applications. Applicants respectfully request reconsideration of the restrictions in this case and submit that the inventions as claimed can be readily evaluated in one search without placing undue burden on the Examiner.

The Examiner has required an election of species under 35 U.S.C. 121, asserting that the claims are directed to patentably distinct species of the claimed invention (page 4, Office Action mailed July 14, 2004). However, Applicants respectfully submit that the claims of elected Group III (claims 34-44 and 67-82) are generic and do not recite any of species a) through d). Thus, an election of species cannot be made at this time.

Amendment and Response to Restriction Requirement***Page 10 of 10******Applicant(s): Emery et al.******Serial No.: 10/749,602******Filed: December 31, 2003******For: IN OVO DELIVERY OF AN IMMUNOGEN CONTAINING IMPLANT*****Conclusion**

The Examiner is invited to contact Applicants' Representatives at the below-listed telephone number, if there are any questions regarding this Preliminary Amendment or if prosecution of this application may be assisted thereby.

Respectfully submitted for
Emery et al.

By
Mueting, Raasch & Gebhardt, P.A.
P.O. Box 581415
Minneapolis, MN 55458-1415
Phone: (612)305-1220
Facsimile: (612)305-1228
Customer Number 26813

Date August 16, 2004

By: D.L. Provence
David L. Provence
Reg. No. 43,022
Direct Dial (612)305-1005

CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16th day of AUGUST, 2004, at 2:51 PM (Central Time).

By: Sam C. Tter
Name: SAM TTER